

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

AMERICAN PATENTS LLC,

Plaintiff,

v.

NEWELL BRANDS INC. and BRK
BRANDS, INC.,

Defendants.

CIVIL ACTION NO. 6:21-cv-636-ADA

JURY TRIAL DEMANDED

ANSWER TO BRK'S COUNTERCLAIMS

Plaintiff American Patents LLC ("American Patents") files this answer to the counterclaims of Defendant BRK Brands, Inc. ("BRK"), based on its own knowledge as to itself and its own actions and based on information and belief as to all other matters, as follows. Any allegation not specifically admitted is denied:

NATURE OF ACTION

1. Admitted that BRK seeks a declaratory judgment with respect to the asserted patents. Otherwise denied.

PARTIES

2. Admitted that BRK Brands, Inc. is a Delaware company with a place of business at 3901 Liberty Street Aurora, Illinois 60504. Otherwise denied.

3. Admitted.

JURISDICTION AND VENUE

4. Admitted that BRK seeks a declaratory judgment with respect to the asserted patents. Otherwise denied.

5. Admitted.

6. Admitted that by virtue of its filing its action against BRK, American Patents has consented that venue is permissible in this District. Otherwise denied.

COUNTERCLAIM I: ALLEGED NON-INFRINGEMENT OF U.S. PAT. NO. 7,088,782

7. American Patents hereby repeats and re-alleges the admissions and denials contained in all of the preceding paragraphs. Any allegation not specifically admitted is denied.

8. Admitted that an actual controversy exists between the parties regarding infringement. Otherwise denied.

9. Denied.

10. Admitted that BRK seeks a declaratory judgment with respect to the '782 Patent. Otherwise denied.

COUNTERCLAIM II: ALLEGED INVALIDITY OF U.S. PAT. NO. 7,088,782

11. American Patents hereby repeats and re-alleges the admissions and denials contained in all of the preceding paragraphs. Any allegation not specifically admitted is denied.

12. Admitted that an actual controversy exists between the parties regarding validity. Otherwise denied.

13. Denied.

14. Admitted that BRK seeks a declaratory judgment with respect to the '782 Patent. Otherwise denied.

COUNTERCLAIM III: ALLEGED NON-INFRINGEMENT OF U.S. PAT. NO. 7,310,304

15. American Patents hereby repeats and re-alleges the admissions and denials contained in all of the preceding paragraphs. Any allegation not specifically admitted is denied.

16. Admitted that an actual controversy exists between the parties regarding infringement. Otherwise denied.

17. Denied.

18. Admitted that BRK seeks a declaratory judgment with respect to the '304 Patent. Otherwise denied.

COUNTERCLAIM IV: ALLEGED INVALIDITY OF U.S. PAT. NO. 7,310,304

19. American Patents hereby repeats and re-alleges the admissions and denials contained in all of the preceding paragraphs. Any allegation not specifically admitted is denied.

20. Admitted that an actual controversy exists between the parties regarding validity. Otherwise denied.

21. Denied.

22. Admitted that BRK seeks a declaratory judgment with respect to the '304 Patent. Otherwise denied.

COUNTERCLAIM V: ALLEGED NON-INFRINGEMENT OF U.S. PAT. NO. 7,706,458

23. American Patents hereby repeats and re-alleges the admissions and denials contained in all of the preceding paragraphs. Any allegation not specifically admitted is denied.

24. Admitted that an actual controversy exists between the parties regarding infringement. Otherwise denied.

25. Denied.

26. Admitted that BRK seeks a declaratory judgment with respect to the '458 Patent. Otherwise denied.

COUNTERCLAIM VI: ALLEGED INVALIDITY OF U.S. PAT. NO. 7,706,458

27. American Patents hereby repeats and re-alleges the admissions and denials

contained in all of the preceding paragraphs. Any allegation not specifically admitted is denied.

28. Admitted that an actual controversy exists between the parties regarding validity. Otherwise denied.

29. Denied.

30. Admitted that BRK seeks a declaratory judgment with respect to the '458 Patent. Otherwise denied.

COUNTERCLAIM VII: ALLEGED NON-INFRINGEMENT OF U.S. PAT. NO. 6,847,803

31. American Patents hereby repeats and re-alleges the admissions and denials contained in all of the preceding paragraphs. Any allegation not specifically admitted is denied.

32. Admitted that an actual controversy exists between the parties regarding infringement. Otherwise denied.

33. Denied.

34. Admitted that BRK seeks a declaratory judgment with respect to the '803 Patent. Otherwise denied.

COUNTERCLAIM VIII: ALLEGED INVALIDITY OF U.S. PAT. NO. 6,847,803

35. American Patents hereby repeats and re-alleges the admissions and denials contained in all of the preceding paragraphs. Any allegation not specifically admitted is denied.

36. Admitted that an actual controversy exists between the parties regarding validity. Otherwise denied.

37. Denied.

38. Admitted that BRK seeks a declaratory judgment with respect to the '803 Patent. Otherwise denied.

COUNTERCLAIM IX: ALLEGED UNENFORCEABILITY OF U.S. PAT. NO. 7,706,458

39. American Patents hereby repeats and re-alleges the admissions and denials contained in all of the preceding paragraphs. Any allegation not specifically admitted is denied.

40. Admitted that an actual controversy exists between the parties regarding enforceability. Otherwise denied.

41. Denied.

42. Admitted that Dr. Apurva Mody is a named inventor of the '782, '304, and '458 Patents. Admitted that American Patents alleges that BRK has infringed the '782, '304, and '458 Patents. Otherwise denied.

43. Admitted that the '782 Patent, the '304 Patent, and the '458 Patent were previously assigned to BAE Systems Information and Electronic Systems Integration Inc. Admitted that BRK seeks a declaratory judgment with respect to the '458 Patent. Otherwise denied.

COUNTERCLAIM X: ALLEGED UNENFORCEABILITY OF U.S. PAT. NO. 7,310,304

44. American Patents hereby repeats and re-alleges the admissions and denials contained in all of the preceding paragraphs. Any allegation not specifically admitted is denied.

45. Admitted that BRK seeks a declaratory judgment with respect to the '304 Patent. Otherwise denied.

COUNTERCLAIM XI: ALLEGED UNENFORCEABILITY OF U.S. PAT. NO. 7,088,782

46. American Patents hereby repeats and re-alleges the admissions and denials contained in all of the preceding paragraphs. Any allegation not specifically admitted is denied.

47. Admitted that BRK seeks a declaratory judgment with respect to the '782 Patent. Otherwise denied.

COUNTERCLAIM XII: ALLEGED UNENFORCEABILITY OF U.S. PAT. NO. 6,847,803

48. Admitted that an actual controversy exists between the parties regarding enforceability. Otherwise denied.

49. Denied.

50. Admitted that Nokia is a predecessor-in-interest to the '803 Patent. Otherwise denied.

51. Admitted that BRK seeks a declaratory judgment with respect to the '803 Patent. Otherwise denied.

ALLEGED EXCEPTIONAL CASE

52. Denied.

PRAYER FOR RELIEF

American Patents denies that BRK is entitled to any of the relief for which it prays.

JURY DEMAND

American Patents demands a trial by jury on all issues so triable by right.

Dated: September 7, 2021

Respectfully submitted,

/s/ C. Ryan Pinckney

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CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of September 2021, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

By: /s/ C. Ryan Pinckney

C. Ryan Pinckney